

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 891 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MOTIBEN WD/O SOMAJI D THAKOR

Versus

STATE OF GUJARAT

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Appearance:

MR AJ PATEL for Petitioners

MR.A.G.URAIZEE,ASSISTANT GOVERNMENT PLEADER for the  
Respondent

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CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 19/03/96

ORAL JUDGEMENT

The dispute revolves round the land bearing survey number 213, admeasuring 2 acres- 29 gunthas of village Ghatlodia,talula,city,district Ahmedabad. The contention of the petitioners in this petition under Article 226 of

the Constitution is that entry No.809 made on 2.6.1956 in respect of the disputed property and treating it as new tenure land, is illegal. According to the case of the petitioners, the disputed property is free-hold land belonging to them since their forefathers and the endorsement or entry about new tenure condition with regard to the disputed land is without jurisdiction and unauthorised.

Upon coming to know that such an entry has been effected in the revenue record that land is shown to be new tenure land, the petitioners made an application to the Collector on 22.10.1993 requesting him to delete the said entry from the revenue record. It was indicated and pointed out in the application that the land in dispute was never granted by the Government in favour of the petitioners. That the land was owned and possessed by the predecessors-in-title of the petitioners and that the land in dispute was shown in the revenue record since 1929-30 as land occupied by the predecessors-in-title of the petitioners. It was, therefore, requested in the said application that the new condition imposed about new tenure land should be deleted.

The petitioners have contended that mutation entry no. 809 which was made by the Talati on 2.6.1956 and which came to be certified on 12.2.1957 in village form No.6 in respect of the disputed land is unauthorised and unjustified.

It appears from the record that the Collector, Ahmedabad by his communication dated 25.11.1994 informed the petitioners that the application made by them for deleting entry No. 809 from the revenue record has been filed, a copy whereof is produced at Annexure I to this petition. The petitioners have, therefore, come up before this court challenging its legality and validity.

After having examined the facts and circumstances emerging from the record of the present case, this court is satisfied that the ends of justice will be met if the Collector, Ahmedabad is directed to reconsider and reexamine, upon inquiry, the representation or application of the petitioners made on 22.10.1993 and to decide the same in accordance with law .

In the result, the petition is required to be partly allowed. The City Collector, Ahmedabad is directed to reconsider and reexamine the representation of the petitioners made in writing on 22.10.1993 requesting the Collector to delete entry No.809 from the revenue record

in accordance with rules ,purely on its merits,after holding necessary inquiry through his office or appropriate revenue officer subordinate to him,and to pass appropriate order on the representation,as early as possible and preferably within six months from the date of receipt of writ of this court. Rule is made absolute to this extent. There shall be no order as to costs.

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